

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:)
)
NATIONAL FORGE COMPANY, *et, al.*)
)
Debtor.)
)
OFFICIAL COMMITTEE OF)
UNSECURED CREDITORS OF)
NATIONAL FORGE COMPANY,)
)
Plaintiff)
)
And)
)
OFFICIAL COMMITTEE OF RETIREES)
OF NATIONAL FORGE COMPANY,)
)
Interveners)
)
v.) C.A. No. 04-21 ERIE
)
)
E. ROGER CLARK, both individually and)
as an officer and director of National Forge)
Company; MAURICE J. CASHMAN, both)
individually and as an officer and director of)
National Forge Company; DANA)
BEYELER, both individually and as an)
officer and director of National Forge)
Company; ROBERT A KAEMMERER,)
both individually and as an officer and)
director of National Forge Company;)
DANIEL ANTOS; WILLIAM D. BAILEY;)
RICHARD A. BREWSTER; JAMES E.)
CALDWELL; LARRY CAMPBELL;)
JAMES C. CONFER; RICHARD)
D'ALESSANDRO; DONALD FISSEL;)
JAMES B. HARRIS; THOMAS H.)
JACKSON; ASHOK K. KHARE; CARL J.)
LUPPINO; CLARENCE E. MASON;)
HAROLD MURPHY; PHILIP R.)
NONOSEL; CHARLES R. OLSON; JAMES)
D. RUHLMAN; PHILLIP R. SIMONS;)

GLENN E. TURK; RONALD L. YOUNG;)
BARRY ZISCHKAU; J.P. MORGAN)
CHASE & CO., as a Lender and an Agent on)
behalf of Certain Lenders under Various)
Amendments to Amended and Restated)
Credit Agreement dated April 6, 1998 ;)
FLEET BUSINESS CREDIT)
CORPORATION; and NATIONAL CITY)
BANK OF PENNSYLVANIA,)
)
Defendants)

MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

AND NOW comes the Official Committee of Unsecured Creditors of National Forge Company, *et al.*, (the “Committee”), by and through its undersigned counsel, and files the within Motion for Leave to File Amended Complaint, respectfully representing as follows:

1. Plaintiff filed a Complaint against the Defendants on January 31, 2003, seeking among other things, to bring fraudulent transfer claims and claims arising out of breaches of the Pennsylvania Business Corporation Law.

2. Plaintiff’s claims against the Defendants arise out of a transaction pursuant to which National Forge Company (“NFC”) and/or National Forge Company Holdings (“NFC Holdings”) authorized the redemption of all Class B common shares of NFC Holdings for an amount totaling \$5,749,868.74 and distributed to the above named Defendants in various amounts (the “Stock Transfer”).

3. After many months of briefing and argument, on May 26, 2005 this Court granted the Committee authority to pursue the claims against the above listed Defendants.

4. On July 14, 2005 the parties executed a Joint Proposed Discovery/Case Management Plan that provided by agreement of the parties that the parties could amend their

pleadings until August 15, 2005. On July 29, 2005 this Court executed a Case Management Order providing for the same.

5. Leave to amend pleadings should be freely granted where it is required by justice and will not cause injustice to the non-moving party. See *Fiber-Lite Corp. v. Molded Acoustical Prods.*, 150 B.R. 608 (Bankr. E.D. Pa. 1993); *Carey v. Beans*, 500 F. Supp. 580, 582-83 (E.D. Pa. 1980), *aff'd*, 659 F.2d 1065 (3rd Cir. 1981).

6. On July 18, 2005, Defendants filed a Motion for Summary Judgment and Brief in Support of Motion for Entry of an Order Granting Summary Judgment.

7. In their Brief, Defendants contend that Delaware law governs the actions of the officers and directors regarding the Stock Transfer because NFC Holdings is a Delaware corporation.

8. To the extent that Delaware law applies to the actions of the directors and officers, Counts VII and VIII of the Amended Complaint assert claims against the officers and directors under Delaware law.

9. Plaintiff also seeks to amend the Complaint to clarify claims against the Defendants for a breach of fiduciary duty under Pennsylvania law. Said claims have been asserted under Count VI of the Amended Complaint.

10. The Defendants are not prejudiced by the addition of Count VI since a claim for breach of fiduciary duty is an element of the claim pursuant to Section 1553 of the Pennsylvania Business Corporation Law alleged in Counts IV and V of Plaintiff's original Complaint.

11. The facts giving rise to Counts VI, VII and VIII of the Amended Complaint arise out of the same operative facts and circumstances as set forth in the original Complaint.

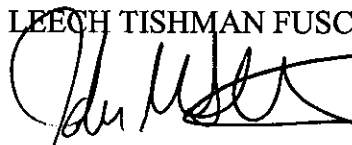
12. Finally, Plaintiff seeks to amend the Complaint to clarify the factual background of these claims in light of Defendants' characterization of the facts as stated in their Brief in Support of Summary Judgment.

14. Plaintiff's proposed Amended Complaint is attached hereto as Exhibit 1.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant Plaintiff's Motion for Leave to File Amended Complaint and permit Plaintiff to file the attached Amended Complaint.

Respectfully submitted,

LEECH TISHMAN FUSCALDO & LAMPL, LLC

A handwritten signature in black ink, appearing to read 'David W. Lampl', is written over a horizontal line.

David W. Lampl, Esquire

PA I.D. No. 28900

John M. Steiner, Esquire

PA I.D. No. 79390

525 William Penn Place, 30th Floor

Pittsburgh, Pennsylvania 15219

(412) 261-1600

Counsel for the Official Committee of
Unsecured Creditors